

REMARKS

The Office Action dated August 2, 2004, has been received and carefully considered. In this response, claims 30-33 have been added, and claims 1, 9, 17 and 22 have been amended. Entry of added claims 30-33 and the amendments to claims 1, 9, 17 and 22 is respectfully requested. Newly added claims 30-33 do not recite new matter and therefore do not require a new search. Claim 30-32, for example, recite subject matter from claim 18, and claim 33 recites subject matter from claim 1.

Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following amendments and remarks, which are believed to place the above-identified patent application in condition for allowance or in better form for consideration on appeal.

I. THE ANTICIPATION REJECTION OF CLAIMS 1-19 and 21-29

On page 3 of the Office Action, claims 1-19 and 21-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Youngs et al. (U.S. Patent No. 6,600,918). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished).

Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id..

Regarding claims 1 and 9, the Examiner asserts that Youngs et al. discloses "a method and an apparatus for broadcasting radio programming, TV shows, Internet, and etc. (sic) over a cellular transmission network (see column 3, lines 10), comprising: [p]roviding radio programming in an appropriate format; [e]nabling the radio programming to be accessible over a processor based network and wherein the processor based network is connectable to a cellular transmission network; and transmitting the radio programming over the cellular transmission network and receiving radio programming (see Figure 1, column 3, lines 5-29)."

Notwithstanding Applicant's arguments of May 25, 2004, the Examiner maintains her position that Youngs et al. teaches or suggests "enabling the radio programming to be accessible over a processor based network, wherein the processor based network is connectable to a cellular transmission network." In particular, the Examiner asserts that Youngs et al. "teaches that MSC in (sic) which associates with WSLR (see figure 1) process information between the media services, such as TV and radio and the wireless network." The Examiner also asserts that

"[a]llthough Youngs reference does not explicitly show a component or an interface that transfer any handset requested media programs such as radio or Internet, there must be at least a software program to convert the media programs format to the accessible and acceptable wireless application format if such media programs is indirectly through the wireless network."

Applicant has amended claim 1 to incorporate limitations from dependent claims 26 and 27, namely: (1) verifying that the radio programming is in the appropriate format and (2) converting the format of the radio programming if it is not in the appropriate format. Applicant respectfully submits that Youngs et al. does not teach or suggest the steps of: (1) verifying that the radio programming is in the appropriate format and/or (2) converting the format of the radio programming if it is not in the appropriate format, as expressly recited in claim 1.

To the extent the Examiner asserts that Youngs et al. inherently discloses the conversion step, as apparently is the case with Claim 17, Applicant refers the Examiner to MPEP § 2112 which states that "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the

teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Applicant respectfully submits that the Examiner has not set forth a proper inherency argument, and thus requests that the rejection of claim 17 and 26-29 be withdrawn.

Claim 9, a system claim corresponding to the method of claim 1, has been amended in the same manner and is therefore allowable for the same reasons as claim 1.

Regarding claims 17 and 26-29¹, the Examiner asserts that Youngs et al. discloses "an access device, MSC, for enabling radio programming to be accessible over a processor-based network, a wireless network, the access device comprising: [a]n input for receiving radio programming (see Figure 1), inherently a converter for converting the radio programming to an appropriate format and a delivery module, a base station control that delivers the radio programming to a cellular transmission network." (emphasis added).

¹ Applicants note that the Examiner has not addressed the specific limitations of claims 26-29.

Applicant has amended Claim 17 to recite a "verification module for verifying that the radio programming is in the appropriate format." Applicant respectfully submits that Youngs et al. does not teach or suggest verification module for verifying that the radio programming is in the appropriate format. Further, Applicant respectfully submits the Examiner's apparent inherency argument is improper as explained above in connection with claim 1.

Regarding claim 22, the Examiner asserts that Youngs et al. "discloses a receiver (see figure 1 and item 32f), the receiver comprising: an input for receiving the radio programming signal; an audio output for delivering an audible portion of the radio programming signal; and a display for displaying a visible portion of the radio programming signal (see column 3 and lines 5-15)."

Applicant has nonetheless amended claim 22 to clarify that the input receives the radio programming signal "from a processor based data network through the cellular transmission network." Applicant respectfully submits that Youngs et al. does not teach or suggest an input that receives a radio program signal from a processor based data network through the cellular transmission network.

Each of claims 2-8, 10-16, 18-21 and 23-32 is dependent upon independent claim 1, 9, 17, or 22. Thus, since independent claims 1, 9, 17 and 22 should be allowable as discussed above, claims 2-8, 10-16, 18-21, and 23-32 should also be allowable at least by virtue of their dependency on independent claim 1, 9, 17, or 22. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 29 recites "wherein a broadcast gateway forwards the radio programming to the processor based network." Applicant respectfully submits that Youngs et al. does not teach or suggest a broadcast gateway forwards the radio programming to the processor based network, as expressly recited in claim 29.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-19 and 21-29 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIM 20

On page 5 of the Office Action, claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Youngs et al. in view of Enzmann et al. (U.S. Patent No. 6,516,203).

With respect to claim 20, the Examiner states that "Youngs doesn't expressly teach that the broadcast system further

comprises a signal compressor for compressing a signal associated with the radio programming received as input and an encoder for encoding the signal." However, the Examiner asserts that "Enzmann et al. teaches utilizing wireless Application Protocol to interface from the wireless system to the Internet." The Examiner also asserts that "it would have been obvious to one of the ordinary skill in the art at the time the invention was made to compress and encode an input signal with the broadcasting system such that the wireless communication system is able to adapt the signal from other media and broadcast it in its own domain."

Applicant respectfully submits that the pending obviousness rejection of claim 20 is overcome by the arguments presented above in connection with claim 17, from which claim 20 depends.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claim 20 be withdrawn.

III. CONCLUSION

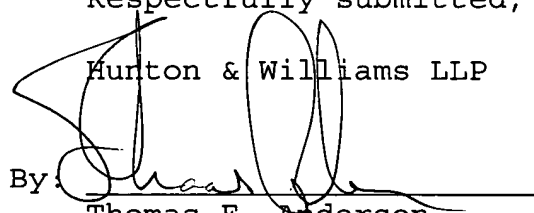
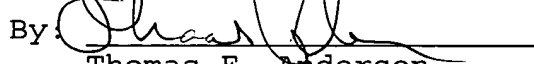
In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by

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Attorney Docket No.: 56130.000066
Client Reference No.: 13259ROUS01U

telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP
By: 
Thomas E. Anderson
Registration No. 37,063

TEA/OAF/dja

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

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